

Adopted

Rejected

COMMITTEE REPORT

YES: 6

NO: 4

MR. SPEAKER:

*Your Committee on Education, to which was referred Senate Bill 281, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 6, line 4, delete "IC 20-8.1-16." and insert "**IC 20-26-11.5.**".
- 2 Page 6, line 8, delete "IC 20-8.1-16." and insert "**IC 20-26-11.5.**".
- 3 Page 6, between lines 35 and 36, begin a new paragraph and insert:
- 4 "SECTION 3. IC 20-8.1-1-19 IS ADDED TO THE INDIANA
- 5 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 6 [EFFECTIVE JULY 1, 2005]: **Sec. 19. As used in this article,**
- 7 **"dependent" has the meaning set forth in Section 152(a) of the**
- 8 **Internal Revenue Code.**
- 9 SECTION 4. IC 20-8.1-1-20 IS ADDED TO THE INDIANA
- 10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 11 [EFFECTIVE JULY 1, 2005]: **Sec. 20. As used in this article,**
- 12 **"federal income poverty level" means the federal income poverty**
- 13 **level for the taxpayer's household using the poverty guidelines**
- 14 **updated periodically by the United States Department of Health**
- 15 **and Human Services under the authority of 42 U.S.C. 9902(2).**

SECTION 5. IC 20-8.1-1-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 21. As used in this article, "qualified education expenditures" means expenditures made by a taxpayer during the twelve (12) month period beginning July 1 and ending June 30 of the taxable year for a dependent with respect to a school of choice for any of the following:**

(1) Fees for academic tuition or instruction.

(2) If the dependent is not enrolled in a school that charges tuition, expenditures for computer software, textbooks, workbooks, curricula, school supplies other than personal computers, and other written materials used primarily for academic instruction and for academic tutoring.

(3) Expenditures for transporting the dependent to and from the school of choice in which the dependent is enrolled, excluding transportation for extracurricular activities.

However, the total of a taxpayer's expenditures described in this section must be reduced by the amount of a scholarship received under IC 20-8.1-6.1-14 to determine qualified educational expenditures for purposes of section 3.1 of this chapter.

SECTION 5. IC 20-8.1-1-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec 22. As used in this article, "school of choice" means:**

(1) a nonpublic school (as defined in IC 20-10.1-1-3); or

(2) a public school (as defined in IC 20-10.1-1-2) in which a dependent is enrolled but that is not the dependent's school of legal settlement for purposes of the general school tuition support formula.

SECTION 6. IC 20-8.1-1-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 23. As used in this article, "taxpayer" means:**

(1) an individual who is; or

(2) an individual and the individual's spouse, in the case of a joint return, who are;

subject to the adjusted gross income tax."

Page 7, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 4. IC 20-8.1-6.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:
 Sec. 3. (a) A school corporation may accept a transferring student without approval of the transferor corporation under section 2 of this chapter.

(b) No transfer may, however, be accepted unless the requesting parents or student pays transfer tuition in an amount determined under the formula established in section 8 of this chapter for the payment of transfer tuition by a transferor school corporation. However, the transferee school shall not offset the amounts described in section 8(b) STEP TWO (B) through section 8(b) STEP TWO (D) of this chapter from the amount charged to the requesting parents or student.

(c) This tuition shall be paid by the parents or the student before the end of the school year in such installments as the transferee corporation determines.

(d) Failure to pay any installment is a ground for exclusion from school.

(e) A taxpayer making a payment with respect to a dependent under this section is entitled to a credit against the adjusted gross income tax imposed by IC 6-3 for the taxable year. The credit to which the taxpayer is entitled is the lesser of the tuition paid under this section or the following:

(1) For a student who is a member of a household with an annual household income that is not more than one hundred seventy-five percent (175%) of the federal income poverty level, the lesser of the following amounts:

(A) per student:

Taxable Year Ending In	Amount
2006 and 2007	\$1,000
2008 and 2009	\$1,500
2010 and 2011	\$2,000
2012 and 2013	\$2,500
2014 and thereafter	\$3,000

(B) per taxpayer:

Taxable Year Ending In	Amount
2006 and 2007	\$2,000
2008 and 2009	\$3,000
2010 and 2011	\$4,000

1	2012 and 2013	\$5,000
2	2014 and thereafter	\$6,000
3	(2) For a student who is a member of a household with an	
4	annual household income that is more than one hundred	
5	seventy-five percent (175%) but not more than three hundred	
6	fifty percent (350%) of the federal income poverty level, the	
7	lesser of following amounts:	
8	(A) per student:	
9	Taxable Year Ending In	Amount
10	2006 and 2007	\$0
11	2008 and 2009	\$500
12	2010 and 2011	\$1,000
13	2012 and 2013	\$1,500
14	2014 and thereafter	\$2,000
15	(B) per taxpayer:	
16	Taxable Year Ending In	Amount
17	2006 and 2007	\$0
18	2008 and 2009	\$1,000
19	2010 and 2011	\$2,000
20	2012 and 2013	\$3,000
21	2014 and thereafter	\$4,000
22	(3) For a student who is a member of a household with an	
23	annual household income that is more than three hundred	
24	fifty percent (350%) of the federal income poverty level, the	
25	lesser of following amounts:	
26	(A) per student:	
27	Taxable Year Ending In	Amount
28	2006 through 2009	\$0
29	2010 through 2013	\$500
30	2014 through 2017	\$1,000
31	2018 through 2021	\$1,500
32	2022 and thereafter	\$2,000
33	(B) per taxpayer:	
34	Taxable Year Ending In	Amount
35	2006 through 2009	\$0
36	2010 through 2013	\$1,000
37	2014 through 2017	\$2,000
38	2018 through 2021	\$3,000

1 **2022 and thereafter \$4,000**
 2 **The amount of a scholarship received under section 14 of this**
 3 **chapter is not considered tuition paid by the taxpayer under this**
 4 **section.**

5 **(f) If the amount of the credit provided by this section that a**
 6 **taxpayer uses during a particular taxable year exceeds the sum of**
 7 **the taxes imposed on the taxpayer by IC 6-3 for the taxable year**
 8 **after the application of all credits that under IC 6-3.1-1-2 are to be**
 9 **applied before the credit provided by this section, the following**
 10 **apply:**

11 **(1) If the taxpayer is covered by subsection (e)(1), the excess**
 12 **shall be returned to the taxpayer as a refund.**

13 **(2) If the taxpayer is covered by subsection (e)(2), fifty percent**
 14 **(50%) of the excess shall be returned to the taxpayer as a**
 15 **refund.**

16 **(3) If the taxpayer is covered by subsection (e)(3), the taxpayer**
 17 **is not entitled to any of the excess as a refund.**

18 **(g) Acceptance by a taxpayer of a credit for qualified education**
 19 **expenditures for a dependent under this section does not provide**
 20 **any governmental entity or agency of the state with jurisdiction,**
 21 **authority, or control over the dependent's educational provider.**

22 **SECTION 5. IC 20-8.1-6.1-3.1 IS ADDED TO THE INDIANA**
 23 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 24 **[EFFECTIVE JULY 1, 2005]: Sec. 3.1. (a) This section applies to a**
 25 **taxpayer who has a dependent who has legal settlement in a school**
 26 **corporation located in Indiana.**

27 **(b) A taxpayer who makes qualified education expenditures is**
 28 **entitled to a credit against the adjusted gross income tax imposed**
 29 **by IC 6-3 for the taxable year. The credit to which the taxpayer is**
 30 **entitled is the lesser of the qualified education expenditures of the**
 31 **taxpayer or the following:**

32 **(1) For a student who is a member of a household with an**
 33 **annual household income that is not more than one hundred**
 34 **seventy-five percent (175%) of the federal income poverty**
 35 **level, the lesser of the following amounts:**

36 **(A) per student:**

37 Taxable Year Ending In	Amount
38 2006 and 2007	\$1,000

1	2008 and 2009	\$1,500
2	2010 and 2011	\$2,000
3	2012 and 2013	\$2,500
4	2014 and thereafter	\$3,000

5 **(B) per taxpayer:**

6	Taxable Year Ending In	Amount
7	2006 and 2007	\$2,000
8	2008 and 2009	\$3,000
9	2010 and 2011	\$4,000
10	2012 and 2013	\$5,000
11	2014 and thereafter	\$6,000

12 **(2) For a student who is a member of a household with an**
 13 **annual household income that is more than one hundred**
 14 **seventy-five percent (175%) but not more than three hundred**
 15 **fifty percent (350%) of the federal income poverty level, the**
 16 **lesser of following amounts:**

17 **(A) per student:**

18	Taxable Year Ending In	Amount
19	2006 and 2007	\$0
20	2008 and 2009	\$500
21	2010 and 2011	\$1,000
22	2012 and 2013	\$1,500
23	2014 and thereafter	\$2,000

24 **(B) per taxpayer:**

25	Taxable Year Ending In	Amount
26	2006 and 2007	\$0
27	2008 and 2009	\$1,000
28	2010 and 2011	\$2,000
29	2012 and 2013	\$3,000
30	2014 and thereafter	\$4,000

31 **(3) For a student who is a member of a household with an**
 32 **annual household income that is more than three hundred**
 33 **fifty percent (350%) of the federal income poverty level, the**
 34 **lesser of following amounts:**

35 **(A) per student:**

36	Taxable Year Ending In	Amount
37	2006 through 2009	\$0
38	2010 through 2013	\$500

1	2014 through 2017	\$1,000
2	2018 through 2021	\$1,500
3	2022 and thereafter	\$2,000
4	(B) per taxpayer:	
5	Taxable Year Ending In	Amount
6	2006 through 2009	\$0
7	2010 through 2013	\$1,000
8	2014 through 2017	\$2,000
9	2018 through 2021	\$3,000
10	2022 and thereafter	\$4,000

11 The credit amount under this subsection with respect to a
 12 dependent is reduced by any credit amount with respect to other
 13 dependents under section 3 of this chapter.

14 (c) If the amount of the credit provided by this section that a
 15 taxpayer uses during a particular taxable year exceeds the sum of
 16 the taxes imposed on the taxpayer by IC 6-3 for the taxable year
 17 after the application of all credits that under IC 6-3.1-1-2 are to be
 18 applied before the credit provided by this section, the following
 19 apply:

20 (1) If the taxpayer is covered by subsection (b)(1), the excess
 21 shall be returned to the taxpayer as a refund.

22 (2) If the taxpayer is covered by subsection (b)(2), fifty percent
 23 (50%) of the excess shall be returned to the taxpayer as a
 24 refund.

25 (3) If the taxpayer is covered by subsection (b)(3), the
 26 taxpayer is not entitled to any of the excess as a refund.

27 (d) The department shall develop a process and create forms
 28 that:

29 (1) permits the taxpayer to assign credits under this section to
 30 the school of choice in which the taxpayer's dependent is
 31 enrolled; and

32 (2) allows the school that receives an assignment of credits to
 33 claim and receive the amount of the credit as soon as the
 34 taxpayer has filed the required income tax return for the
 35 taxable year.

36 (e) Acceptance by a taxpayer of a credit for qualified education
 37 expenditures for a dependent under this section does not provide
 38 any governmental entity or agency of the state with jurisdiction,

1 **authority, or control over the dependent's educational provider.**

2 SECTION 7. IC 20-8.1-6.1-14 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) As used in this section,
5 "ADM" has the meaning set forth in IC 21-3-1.6-1.1. The term
6 includes adjusted ADM.

7 (b) As used in this section, "eligible student" means a student
8 who meets the requirements of subsection (f).

9 (c) As used in this section, "school of choice" means a nonpublic
10 school (as defined in IC 20-10.1-1-3) or a public school (as defined
11 in IC 20-10.1-1-2) in which a dependent is enrolled but that is not
12 the dependent's school of legal settlement for purposes of the
13 general school tuition support formula, if the school:

- 14 (1) is accredited by the state or a national accrediting body;
- 15 (2) is not required to provide supplemental educational
- 16 services for its students or to institute corrective action under
- 17 20 U.S.C. 6316;
- 18 (3) complies with all health and safety laws that apply to
- 19 public or nonpublic schools, respectively;
- 20 (4) holds a valid occupancy permit if required; and
- 21 (5) certifies that it will not discriminate in admissions on the
- 22 basis of race, color, or national origin.

23 (d) As used in this section, "scholarship" refers to a scholarship
24 provided under the scholarship program established by this
25 section.

26 (e) There is established the freedom to achieve scholarship
27 program to assist parents and guardians to pay the costs of their
28 child attending a school of choice.

29 (f) A student who meets the following requirements is eligible for
30 a scholarship for a school year:

- 31 (1) The student was enrolled in a public school during the
- 32 school year preceding the first school year for which a
- 33 scholarship is sought.
- 34 (2) The public school attended by the student under
- 35 subdivision (1) was either required to provide supplemental
- 36 educational services for the student or was required to
- 37 institute corrective action under 20 U.S.C. 6316 for the year
- 38 the student attended the public school.

1 **(3) The student has legal settlement in a school corporation**
 2 **located in Indiana.**

3 **(4) The student is enrolled in a school of choice for the school**
 4 **year for which a scholarship is sought.**

5 **(5) The student is a member of a household with an annual**
 6 **household income that is not more than three hundred fifty**
 7 **percent (350%) of the federal income poverty level using the**
 8 **poverty guidelines updated periodically by the United States**
 9 **Department of Health and Human Services under the**
 10 **authority of 42 U.S.C. 9902(2).**

11 **(g) The parent or guardian of an eligible student seeking a**
 12 **scholarship must apply to the department. The department shall**
 13 **prescribe the form of the application. The application must be filed**
 14 **after June 15 and before July 16 for a scholarship for the upcoming**
 15 **school year. The department shall make a determination whether**
 16 **an applicant has an eligible student within thirty (30) days after the**
 17 **application is filed. The amount of the scholarship for each eligible**
 18 **student who is enrolled in a school of choice that is a nonpublic**
 19 **school is the lesser of:**

20 **(1) the cost of tuition, textbooks, and other mandatory fees,**
 21 **not including fees for extracurricular activities, charged by**
 22 **the school of choice for the eligible student; or**

23 **(2) the sum of the average state tuition support, excluding all**
 24 **categorical grants, per ADM with respect to the public school**
 25 **in which the dependent is eligible for enrollment;**

26 **for the school year for which the scholarship applies. The**
 27 **department shall provide the full scholarship amount by paying**
 28 **equal installments to the school of choice at the same times the**
 29 **department makes a tuition support distribution to the public**
 30 **school in which the eligible student has legal settlement. If an**
 31 **eligible student withdraws from a school of choice, the school of**
 32 **choice shall notify the department within ten (10) days. The**
 33 **department shall thereafter terminate payments to the school of**
 34 **choice for that student.**

35 **(h) To receive a scholarship distribution, a school of choice must**
 36 **agree with the department to do the following:**

37 **(1) Determine before enrolling any potential scholarship**
 38 **students the specific number of scholarship students that will**

1 be admitted, and, if applicants under the program exceed the
 2 determined number of spaces available at any particular
 3 grade level, priority shall be given to a student who is a
 4 member of a household with an annual household income that
 5 is not more than one hundred seventy-five percent
 6 (175%) of the federal income poverty level using the poverty
 7 guidelines updated periodically by the United States
 8 Department of Health and Human Services under the
 9 authority of 42 U.S.C. 9902(2). If applicants under the
 10 program still exceed the determined number of spaces
 11 available at any particular grade level, the school of choice
 12 shall conduct a random selection process to determine those
 13 students that are admitted to that grade level. Exceptions to
 14 this random selection may be made to accommodate siblings
 15 of students who are already enrolled or selected for
 16 enrollment in the school.

17 (2) Not charge any tuition or other fees in excess of the
 18 scholarship amount.

19 (3) Not charge any tuition or other fees under the scholarship
 20 program that exceed the standard rates charged to other
 21 students who pay tuition to enroll in the school.

22 (4) Not refund, rebate, or share a student's scholarship with
 23 a parent or the student in any manner.

24 (5) Use a student's scholarship only for educational purposes.

25 (6) Provide regular academic progress reports to the parents
 26 of students enrolled under the scholarship program.

27 (i) Notwithstanding the state tuition support formula and laws
 28 governing the counting of pupils in ADM, an eligible student who:

29 (1) is enrolled in a school of choice that is a public school; and

30 (2) is not already being counted in ADM of the school
 31 corporation in which the dependent has legal settlement;

32 shall, for purposes of calculating tuition support distributions, be
 33 counted as a full additional ADM of the school corporation in
 34 which the public school of choice is located after otherwise
 35 computing the ADM of that school corporation under the state
 36 tuition support formula.

37 (j) This section applies to a school corporation for purposes of
 38 calculating tuition support distributions regardless of how the

1 scholarship student might otherwise be treated under the school
2 funding formula.

3 (k) An amount sufficient to provide scholarships and grants
4 under this section shall be paid from the state general fund."

5 Page 9, line 18, after "settlement." insert "**However, the property**
6 **owned in the school corporation other than the school corporation**
7 **in which the student has legal settlement must not be owned**
8 **primarily for the purpose of gaining access to the school**
9 **corporation. In determining whether property is owned primarily**
10 **for the purpose of gaining access to the school corporation, the**
11 **following criteria shall be used:**

12 (1) The property must be held at least one (1) year before the
13 beginning of a school year in which the student enrolls in the
14 school corporation.

15 (2) The property must be zoned for residential or commercial
16 use."

17 Page 9, line 28, delete "IC 20-8.1-16" and insert "IC 20-26-11.5".

18 Page 9, line 31, delete "16." and insert "**11.5**".

19 Page 9, line 40, delete "IC 20-10.1-1-2." and insert
20 "**IC 20-18-2-15**".

21 Page 10, line 26, after "reasons." insert "**However, a decision to**
22 **allow a student to enroll in a school corporation in which the**
23 **student does not have legal settlement is not considered a**
24 **determination that the student did not enroll primarily for athletic**
25 **reasons**".

26 Page 10, line 38, delete "IC 20-8.1-6.5-1." and insert
27 "**IC 20-26-11-19**".

28 Page 10, line 40, delete "IC 20-8.1-2" and insert "**IC 20-33-1**".

29 Page 11, line 21, delete "IC 20-1-6-18.1" and insert "**IC 20-35-8-1**".

30 Page 11, line 22, delete "IC 20-1-6-18.1." and insert "**IC 20-35-8-1**".

31 Page 12, line 4, delete "IC 20-1-6-18.2," and insert "**IC 20-35-8-2**".

32 Page 12, line 28, delete "IC 20-10.2," and insert "**IC 20-31**".

33 Page 12, line 35, delete "IC 20-10.2-6-5" and insert "IC 20-31-9-5".

34 Page 13, line 2, delete "IC 20-8.1-16." and insert "**IC 20-26-11.5**".

35 Page 13, between lines 14 through 15, begin a new paragraph and
36 insert:

37 "SECTION 10. IC 20-26-11-30 IS ADDED TO THE INDIANA
38 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2005]: **Sec. 30. (a) The governing body of a school corporation may enter into an interlocal agreement under IC 36-1-7 with the governing body of another school corporation under which a student whose legal settlement is in the school corporation may attend school in the other school corporation.**

(b) If a student attends school in another school corporation under an interlocal agreement described in subsection (a):

(1) the provisions of this chapter concerning transfer tuition do not apply; and

(2) the terms of the interlocal agreement concerning the payment of costs for the student's attendance apply.

SECTION 3. IC 20-26-11-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. (a) This section applies to a student:

(1) who has legal settlement in a school corporation; and

(2) whose parent owns property for which the parent pays property taxes in a school corporation other than the school corporation in which the student has legal settlement.

(b) Not later than April 1, the parent of a student to whom this section applies may notify the school corporation in which the parent owns property that the parent intends to enroll the student in the school corporation in which the parent owns property for the following school year.

(c) A school corporation that receives notice under subsection (b):

(1) shall enroll the student in an appropriate school within the school corporation; and

(2) may not request the payment of transfer tuition for the student from the school corporation in which the student has legal settlement or from the student's parent.

(d) A student to whom this section applies may not enroll primarily for athletic reasons in a school in a school corporation in which the student does not have legal settlement. However, a decision to allow a student to enroll in a school corporation in which the student does not have legal settlement is not considered a determination that the student did not enroll primarily for athletic reasons."

- 1 Page 13, line 17, delete "IC 20-1-1.1-2." and insert "**IC 20-19-3-1.**".
- 2 Page 13, line 19, delete "IC 20-10.1-2-1." and insert
- 3 "**IC 20-18-2-17.**".
- 4 Page 13, line 20, delete "IC 20-8.1-16," and insert "**IC 20-26-11.5,**".
- 5 Page 13, after line 22, begin a new paragraph and insert:
- 6 SECTION 11. [EFFECTIVE JULY 1, 2005] **IC 20-8.1-6.1-3, as**
- 7 **amended by this act, and IC 20-8.1-6.1-3.1, as added by this act,**
- 8 **apply to taxable years beginning after December 31, 2005."**
- 9 Renumber all SECTIONS consecutively.
(Reference is to SB 281 as reprinted February 23, 2005.)

and when so amended that said bill do pass.

Representative Behning